IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4587 OF 2004

WITH

WRIT PETITION NO. 4646 OF 2004

Ajit Baburao Patil & ors..... Petitioner

versus

M/s. Manohar Stores
(proprietor Manohar K. Bedekar)
deceased through L.Rs.
Mrs. Indutai M. Bedekar & ors..... Respondent.

Shri S.M.Kamble for the petitioner
Shri Amit Borkar for Respondents 1 to 3.

CORAM; A.P. DESHPANDE, J.
DATED; 21ST AUGUST, 2007

P.C.;

1. The present petitioner is original plaintiff who has instituted a suit for perpetual injunction seeking to restrain the defendants from carrying on the construction by way of repairs. In the suit so filed, the plaintiff moved an application Exh.5 claiming temporary injunction. Temporary injunction was granted by the trial court. However, in an appeal filed by the respondent, allowing the appeal,the First Appellate Court has rejected the application filed by the plaintiff at Exh.5. This appellate order is challenged by filing W.P.No. 4587 of 2004.

2. In the same suit, the defendants/respondents herein has filed an application at Exh. 15 claiming an injunction against the petitioner/plaintiff not to obstruct from carrying out the repairs. The said application was rejected by the trial court. However in an appeal before the First Appellate Court, allowing the Misc. appeal, the application has been allowed. The said order passed by the First Appellate Court allowing Exh.15 is challenged in W.P. No.4646 of 2004.

3. During pendency of these writ petitions, for last about three years, the impugned order has not been stayed and the temporary injunction is operating against the petitioner and in favour of the respondent. Having regard to the fact that the order of temporary injunction is operating for about last three years, I do not deem it appropriate to interfere with the said order. However, having regard to the fact that the suit is pending since the year 2003, it would be in fitness of things to direct the trial court to decide the suit expeditiously. Hence without touching the merit of the matter, both the writ petitions are summarily dismissed and the trial court is directed to decide the suit as expeditiously as possible and preferably within a period of six months

from today.

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